

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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***Ex parte*** DANA R. LEE, RICHARD J. MADRID and SURESH K. GURSAHANEY

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Appeal No. 1997-3835  
Application No. 07/922,273

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ON BRIEF

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Before MARTIN, JERRY SMITH, and DIXON, **Administrative Patent Judges**.  
DIXON, **Administrative Patent Judge**.

**DECISION ON APPEAL**

This is a decision on appeal from the examiner's final rejection of claims 1-8, which are all of the claims pending in this application.

We REVERSE.

## BACKGROUND

The appellants' invention relates to a method and system for process queue communications routing at a node in a communications network. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A method of routing messages received from a communications network at a communications node to selected computer programs within the communications node, comprising the steps of:

receiving at said communications node, a message from said communications network addressed to said communication node, which includes a message type designation and data;

searching a router table stored at said communications node, using said message type designation as a query term, to get a process queue name for a process queue in said communications node, each process queue associated with a computer program in said communications node;

writing said data to said process queue having the process queue name;

processing said data by said computer program associated with said process queue.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

|                            |           |               |
|----------------------------|-----------|---------------|
| Rhodes et al. (Rhodes)     | 4,896,290 | Jan. 23, 1990 |
| Boese et al. (Boese)       | 5,084,816 | Jan. 28, 1992 |
| Terry                      | 5,119,370 | Jun. 02, 1992 |
| Ben-Ayed et al. (Ben-Ayed) | 5,218,676 | Jun. 08, 1993 |

Claims 1-8 stand rejected under 35 U.S.C. § 103 as being unpatentable over Ben-Ayed in view of Rhodes. Claims 1-8 also stand rejected under 35 U.S.C. § 103 as being unpatentable over Ben-Ayed in view of Rhodes, Boese and Terry.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 19, mailed Jan. 07, 1997) and the supplemental examiner's answer (Paper No. 21, mailed May 07, 1997) for the examiner's reasoning in support of the rejections, and to the appellants' brief (Paper No. 18, filed Oct. 15, 1996) and reply brief (Paper No. 20, filed Feb. 07, 1997) for the appellants' arguments thereagainst.

### **OPINION**

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

The examiner has argued that the "key code" is analogous to a message type. (See answer at page 5.) We agree with the examiner concerning the broad scope of the claim language concerning the "message type" and its use as a search query in a search in a data table. In our view, any communicated data portion which is generally transmitted

with or related to the data being transmitted or inputted may have been used by skilled artisans as a search query in a search or look-up in a table for routing as disclosed by Rhodes. Appellants argue that the keycode of Rhodes is not analogous to the message type designation of the claimed invention. (See brief at page 4.) We disagree with appellants and find no express limitation in the language of independent claims 1, 3, 5, 6 and 8 which provides details to the “message type,” and no evidence to distinguish the message type from event type data. Therefore, this argument is not persuasive.

Appellants argue that the combination of Ben-Ayed and Rhodes is improper and the examiner has used improper hindsight in reconstructing the claimed invention. (See brief at page 7 and reply brief at pages 5-6.) We agree with appellants. Appellants argue that Ben-Ayed does not suggest the combination of the multi-processing environment of Rhodes into the communications network of Ben-Ayed and similarly Rhodes does not teach or suggest the use of the multi-processing functionality in a communication network. The examiner maintains the “routing system of Rhodes enables Ben’s system to more efficiently process data in a multi-processing environment.” (See answer at page 5.) The examiner has not provided a teaching or suggestion why one skilled in the art would have been motivated to make the combination absent the teaching in appellants’ specification. The examiner presents the same motivation for the combination of Ben-Ayed with Rhodes, Terry and Boese. Similarly, we find that the examiner has not provided a convincing line of

reasoning for the combination of the teachings. Therefore, this argument is not persuasive and we will not sustain the rejection of claims 1-8.

Rejections based on § 103 must rest on a factual basis with these facts being interpreted without hindsight reconstruction of the invention from the prior art. The examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. ***See In re Warner***, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), ***cert. denied***, 389 U.S. 1057 (1968). Our reviewing court has repeatedly cautioned against employing hindsight by using the appellants' disclosure as a blueprint to reconstruct the claimed invention from the isolated teachings of the prior art. ***See, e.g., Grain Processing Corp. v. American Maize-Products Co.***, 840 F.2d 902, 907, 5 USPQ2d 1788, 1792 (Fed. Cir. 1988). Since all the limitations of independent claims 1, 3, 5, 6, and 8 are neither taught nor suggested by the applied prior art in the reconstructed combination, we cannot sustain the examiner's rejection of appealed claims 1, 3, 5, 6, and 8 under 35 U.S.C. § 103. Therefore, we will not sustain the rejection of dependent claims 2, 4 and 7.

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### **CONCLUSION**

To summarize, the decision of the examiner to reject claim 1-8 under 35 U.S.C. §  
103 is reversed.

### **REVERSED**

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|-----------------------------|---|-----------------|
| JOHN C. MARTIN              | ) |                 |
| Administrative Patent Judge | ) |                 |
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|                             | ) | BOARD OF PATENT |
| JERRY SMITH                 | ) | APPEALS         |
| Administrative Patent Judge | ) | AND             |
|                             | ) | INTERFERENCES   |
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| JOSEPH L. DIXON             | ) |                 |
| Administrative Patent Judge | ) |                 |

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